

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RODNEY JAMES MILLS,

Plaintiff,

v.

J. AGURKIS, et al.,

Defendants.

Case No. 2:22-cv-01675-DJC-JDP (PC)

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 17, 2023, the Magistrate Judge filed findings and recommendations herein which were served on Plaintiff and which contained notice to Plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has not filed objections to the findings and recommendations.

The Court presumes that any findings of fact are correct. See *Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The Magistrate Judge's conclusions of law are reviewed de novo. See *Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court"). Having reviewed the file, the Court finds

1 the findings and recommendations to be supported by the record and by the proper
2 analysis. However, the Court will specify that the dismissal be without prejudice.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed May 17, 2023, are adopted in part,
5 the only modification being that the dismissal is without prejudice;
6 2. This action is dismissed without prejudice for failure to prosecute, failure to
7 comply with court orders, and failure to state a claim, for the reasons set forth in the
8 January 23, 2023 and April 4, 2023 orders; and
9 3. The Clerk of Court is directed to close the case.

10 IT IS SO ORDERED.
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12 Dated: June 17, 2023


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE

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